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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,300

12/31/2003

Anindya Banerjee

5760-18600

9800

35690

7590

03/27/2008

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.

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EXAMINER

TRUONG, LECHI

ART UNIT

PAPER NUMBER

2194

MAIL DATE

DELIVERY MODE

03/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/749,300	Applicant(s) BANERJEE ET AL.	
	Examiner LECHI TRUONG	Art Unit 2194	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: none.
 Claim(s) objected to: none.
 Claim(s) rejected: 1-20.
 Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/VAN H NGUYEN/
 Primary Examiner, Art Unit 2194

Continuation of 11. does NOT place the application in condition for allowance because: Applicant amendment filed on 03/11/2008 has been considered but they are not persuasive:

1. Applicant argued in substance that :

(1) " Examiner does not provide any reasoning or any evidence of any teaching in the cited references that would motivate one skilled in the art to modify Frolund to produce the recited limitations of, "sending a third message to the plurality of participant nodes, wherein the third message instructs the participant nodes to commit the transaction".

2. Examiner respectfully disagreed with Applicant's remarks:

As to the point (1), Frolund teaches return an indication to the client that request was successfully processed but, Frolund does not teach send a third message to the node wherein the third message instructs the node to commit transaction after return an indication to the client that request was successfully processed. However, Svend teaches send a third message to the node wherein the third message instructs the node to commit transaction after return an indication to the client that request was successfully processed (The STM 18-1 then sends a "prepare" 42 message to the DBS 22-1 and the DBS 22-2 to request a vote from the DBSs on whether they are able to commit to the transaction. The DBS 22-1 and the DBS 22-2 reply with a "vote" 44[indication] ... The STM 18-1 sends a "reply" 50 to the CTM 14 and a "commit" 52 command [third command] to the DBS 22-1 and the DBS 22-2. The "commit" 52 command instructs the DBS 22-1 and DBS 22-2 to commit the transaction to a determined state, col 5, ln 54-62/ If the CTM 14 does not receive the "reply" 50, it needs to retry the method invocation. The CTM 14 should not perform the retry if the transaction has already been committed at the server side since that would cause the transaction to be executed twice, col 6, ln 32-38/the votes are "yes"[indication], col 8, ln 14-16). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Frolund and Johnson with Svend to incorporate the feature of returning an indication to client application that the request was successfully processed, the third message instructs the participant nodes to commit the transaction because this allows client to be able to determine whether the database update will be performed or not.